

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

MICHAEL SHERMAN ALLEN,

Plaintiff,

v.

**SECRETARY JOHN WETZEL,
REGIONAL SECRETARY TREVOR
WINGARD, SUPERINTENDENT ERIC
ARMEL, CO ROBERT HOLLOWOOD,
CO PAUL GAFFEY, SGT. CHRISTOPHER
SHELDON, LIEUT. POSKA, LIEUT.
DAILEY, LIEUT. RUSNAK, KERRI CROSS,
CO JUAN MACIAS, CO MERRILL,
CO WHEELER, CO DORAN, CO HOLT,
CO EICHER, CO RUBISH, CO HIRAK,
CO CUMMINGS, and JOHN and
JANE DOES,**

Defendants.

**Civil Action No.
2:19-cv-01258-RJC**

Electronically Filed

Hon. Robert J. Colville

**MOTION FOR SANCTIONS AGAINST DEFENDANTS AND REJECTION
OF THEIR UNTIMELY MOTION IN LIMINE**

Plaintiff Michael Sherman Allen, by and through his attorney Leticia Chavez-Freed, Esq., hereby files this Motion for sanctions (judgment in favor of Plaintiff on his supervisory liability claim) against Defendants and rejection of

their untimely motion in limine. In support thereof, Plaintiff's Counsel avers as follows:

1. This matter has been litigated for more than 4 years and is now scheduled for trial on Monday, October 30, 2023.
2. On October 25, 2023, Defendants advised Plaintiff's Counsel that they wanted to produce a document, dated May 31, 2019.
3. The document was a DOC disciplinary report which exonerated Defendant Hollowood of using excessive force against Plaintiff, which is also the central issue in this litigation.
4. Up until October 25, 2023, the only disciplinary document that Defendants had turned over to Plaintiff's Counsel was an April 30, 2019 DOC investigation report finding that Defendant Hollowood did, in fact, use excessive force against Plaintiff.
5. The relevance of the May 31, 2019 document was significant to Plaintiff's supervisory claim against Defendants Wetzel, Wingard and Armel.
6. Because Plaintiff did not have the May 31, 2019 when Defendants filed their summary judgment motion in 2022, Plaintiff was unable to meet the standard of supervisory liability; hence, the Magistrate Judge CORRECTLY ruled against Plaintiff as to supervisor liability and granted Defendants judgment on that claim.

7. On October 27, 2023, Defendants filed a motion in limine, requesting that DOC's April 30, 2019 report, which found Defendant Hollowood guilty, be excluded at trial. In the same motion, Defendants request permission to use DOC's May 31, 2019 report, which exonerated Defendant Holloway, at trial.

8. Defendants' withholding of the May 31, 2019 report has already unfairly prejudiced Plaintiff based on the Magistrate Judge's ruling against Plaintiff on the supervisory liability claim.

9. Defendants untimely motion in limine is yet another tactic designed to prejudice Plaintiff; Defendants audaciously seek to now use the May 31, 2019 report which they just produced to Plaintiff's Counsel and to exclude the April 30, 2019 report on which Plaintiff's Counsel has relied in the preparation of her case for trial.

10. Plaintiff requests this Court to grant Plaintiff judgment on the supervisory liability claim and reject Defendants' untimely motion in limine.

Plaintiff relies on the attached Memorandum in support of this motion.

s/Leticia C. Chavez-Freed, Esq.
Leticia C. Chavez-Freed, Esq.

Date: October 27, 2023